

1 Zachary Tyson
2 Attorney Bar No. 262251
3 Nova Law Group
4 800 West El Camino Real, Suite 180
5 Mountain View, CA 94040

6 Attorney for Debtor

7 **UNITED STATES BANKRUPTCY COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**

9 In the Matter of:) Bk. No. 10-57326
10 Sharon Mahoney) CHAPTER 13
11 Debtor)
12) **DECLARATION OF DEBTOR'S**
13) **ATTORNEY IN SUPPORT OF ENTRY**
14) **OF AN ORDER BY DEFAULT**
15)

- 16 1. I, Zachary Tyson, am the Movant's Attorney in this matter and declare as follows:
17 2. On August 6, 2010, Movant filed a motion entitled MOTION TO VALUE SECURED
18 CLAIM AND TO AVOID LIEN OF SunTrust Mortgage Inc.
19 3. A copy of the motion and notice of motion is attached hereto.
20 4. Pursuant to Local Bankruptcy Rules 2002 and 9014-1, the motion was served by
21 certified mail on August 6, 2010, together with a notice stating that any party
22 objecting to the motion had 21 days within which to file and serve any written
23 objection and request a hearing on the above motion.
24 5. More than 21 days have passed since the service of the notice of motion.
25 6. No objection has been timely served on Movant at the address specified in the notice.
26 Therefore, no hearing is required.
27 7. The proposed Order is submitted herewith.

28 ///

WHEREFORE, Movant requests that the Order granting the relief requested in the motion be signed and entered forthwith.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on the following date at Mountain View, California.

DATED: August 30, 2010

/s/ Zachary Tyson
Zachary Tyson
Attorney for Debtor

1 Zachary Tyson, esq.
2 State Bar Number: 262251
3 800 West El Camino Real, Suite 180
4 Mountain View, CA 94040
5 Attorney for Debtor

6 **UNITED STATES BANKRUPTCY COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**

8 In the Matter of:) Bk. No. 10-57326
9)
10 SHARON MAHONEY) CHAPTER 13
11)
12 Debtor) **NOTICE OF MOTION TO VALUE**
13) **SECURED CLAIM AND AVOID LIEN**
14) **OF SUNTRUST MORTGAGE INC. AND**
15) **OPPORTUNITY TO REQUEST**
16) **HEARING**

17 **NOTICE IS HEREBY GIVEN** that the debtor has filed herewith a **MOTION TO**
18 **VALUE SECURED CLAIM AND AVOID LIEN OF SUNTRUST MORTGAGE INC.**
19 **AND DECLARATION OF DEBTOR IN SUPPORT OF MOTION. You are notified**
20 **that, pursuant to Bankruptcy Rule 2002,** you are given twenty (21) days from the date of
21 mailing of this notice to request a hearing on this Application. Such a request shall be filed
22 with the Clerk of the U.S. Bankruptcy Court at the following address:

23 Clerk of the U.S. Bankruptcy Court
24 280 South First Street, Room 3035
25 San Jose, CA 95113-3099

26 **Bankruptcy Local Rule 9014-1 of the United States Bankruptcy Court for the**
27 **Northern District of California prescribes the procedures to be followed and any**
28

1 objection to the requested relief, or a request for hearing on the matter must be filed and
2 served upon the requesting party within 21 days of mailing of the notice;

3 A request for a hearing or objection must be accompanied by any declarations or
4 memoranda of law the party objecting or requesting wishes to present in support of its
5 position;

6
7 If there is not a timely objection to the requested relief or a request for hearing,
8 the court may enter an order granting the relief by default; and

9
10 The initiating party will give either (1) at least 10 days written notice of hearing
11 to the objecting or requesting party, and to any trustee or committee appointed in the
12 case, in the event an objection or request is timely made, or (2) at least 10 days written
13 notice of the tentative hearing date.

14
15
16 DATED: 8/3/10

17 /s/ Zachary Tyson, esq.
18 Zachary Tyson, esq.
19 Attorney for Debtors
20
21
22
23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

I am employed in the County of Santa Clara. I am over the age of eighteen years and not a party to the above referenced case. My business address is 800 West El Camino Real, Suite 180, Mountain View, CA 94040. On August 6, 2010, I served the attached:

- On the parties listed below by placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, BY CERTIFIED MAIL, in the United States Postal Service at Santa Clara, California.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this Declaration was executed on the following date at San Mateo, California.

/s/ Zachary Tyson
 Zachary Tyson

Attn: Managing Officer
CSC-Lawyers Incorporating Service
C/O SunTrust Mortgage Inc.
2730 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

Attn: Managing Officer
SunTrust Mortgage Inc.
Bankruptcy Department RVW
P.O. Box 27767
Richmond, VA 23261

1 Zachary Tyson, esq.
2 Attorney Bar Number: 262251
3 Nova Law Group
4 800 West El Camino Real, Suite 180
5 Mountain View, CA 94040
6 (650)-265-4045
7 zacharytyson@novalawgroup.com

8 Attorney for Debtor

9
10 **UNITED STATES BANKRUPTCY COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 In the Matter of:) Bk. No. 10-57326
13 SHARON MAHONEY)
14 Debtor) CHAPTER 13
15) **MOTION TO VALUE SECURED CLAIM**
16) **AND AVOID LIEN OF SUNTRUST**
17) **MORTGAGE INC; DECLARATION OF**
18) **DEBTOR IN SUPPORT OF MOTION**
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)

29 TO: SUNTRUST MORTGAGE INC., AND ITS AGENTS, Debtor SHARON
30 MAHONEY moves this court, pursuant to 11 U.S.C. § 506(a) and Bankruptcy Rule 3012, to
31 value the secured claim of the 2nd Deed of Trust lender SUNTRUST MORTGAGE INC. at
32 zero dollars and to treat that claim as being entirely unsecured and no longer a secured lien
33 against Debtor's real property at 192 Anaheim Terrace, Sunnyvale, CA 94086, and to avoid
34 the lien of SUNTRUST MORTGAGE INC., and to pay lender's claim as a general unsecured
35 claim on the grounds that it is not a secured claim within the meaning of 11 U.S.C. § 506.

36 Debtor SHARON MAHONEY respectfully moves the court for an Order valuing the
37 junior lien of lender SUNTRUST MORTGAGE INC. on Debtor's real property residence at
38 192 Anaheim Terrace at zero dollars, such that on confirmation of Debtor's Chapter 13 plan,
39 SUNTRUST MORTGAGE INC. shall no longer have a junior lien or 2nd Deed of Trust
40 against Debtor's real property.

1 Debtor states that the basis for the motion is the lack of equity in the encumbered
2 property and in support of the motion submits the following information:

3
4 1. Debtor filed the Chapter 13 bankruptcy petition herein on July 16, 2010.

5 2. Name of the creditor holding the junior lien that is the subject of this motion:

6 SUNTRUST MORTGAGE INC.

7 3. Description of Collateral:

8 192 Anaheim Terrace, Sunnyvale, CA 94086

9 4. The amount owed to and the name of all creditors holding liens or security interests senior
10 to the lien of the above-name creditor:

11 SUNTRUST MORTGAGE INC. \$866,900.51

12 5. Debtors' opinion of the value of the collateral:

13 \$660,000 Based on Sale of Home Next Door on 3/09/2010.

14 6. Value listed in Schedules:

15 \$825,000

16 7. Value in Appraisal:

17 \$822,500
18

19 WHEREFORE, Debtor prays for an order treating the junior lien on Debtor's
20 residence as a general unsecured claim pursuant to 11 U.S.C. § 506(a) and Bankruptcy Rule
21 3012.
22
23

24 DATED: 8/3/2010

/s/ Zachary Tyson, esq.

Zachary Tyson, esq.
Attorney for Debtor
25
26
27
28

1 DECLARATION OF DEBTOR IN SUPPORT OF MOTION

2 The undersigned declares as follows:

3 I, SHARON MAHONEY, am the debtor in the above-captioned matter, and if called
4 as witnesses, could testify competently to the following facts, which are all within my
5 personal knowledge:

6 1. I have resided and continue to reside at 192 Anaheim Terrace, since the filing of
7 my Chapter 13 petition on July 16, 2010.

8 2. I own the property located at 192 Anaheim Terrace in fee simple title. At the time I
9 bought the property and ever since that time, I have owned and resided at 192 Anaheim
10 Terrace.

11 3. I believe that the fair market value of the home at the time of the filing of the
12 Chapter 13 petition was no more than \$660,000. I believe that the fair market value of the
13 house is no more than \$660,000, based upon my knowledge of sales of similar homes in the
14 area in which I live, including a recent sale of the home next door, which is nearly identical to
15 my own. I have also attached an informal appraisal I obtained (see attached), but I feel this
16 appraisal is less accurate than the sale of the identical home next to my own, which is also
17 attached, and sold for \$660,000 on 3/9/2010. I believe that the value of the property has
18 declined further since that time. The present encumbrances against the home include:

19 SUNTRUST MORTGAGE INC FIRST	\$866,900.51
20 SUNTRUST MORTGAGE INC SECOND	\$208,588.62

21 4. I believe, under the circumstances set forth above, that there is no equity to secure
22 the claim of the second mortgage loan of SUNTRUST MORTGAGE INC. Accordingly, I
23 hereby request this Court to enter its order avoiding the junior lien of creditor SUNTRUST
24 MORTGAGE INC.

25 I declare under penalty of perjury under the laws of the United States that the
26 foregoing is true and correct.

27 Dated: 8/3/2010

/s/ Sharon Mahoney
Sharon Mahoney

Westlaw Delivery Summary Report for TYSON,ZACHARY

Your Search:	ADN (191) & STREET-NAME(ANAHEIM & TERRACE) & CITY(SUNNYVALE) & COUNTY(SANTA & CLARA) & ZIP-CODE(94086) & STATE(CA)
Date/Time of Request:	Tuesday, August 3, 2010 13:54 Pacific
Client Identifier:	19
Database:	RP-ALL
Lines:	75
Documents:	1
Images:	0

The material accompanying this summary is subject to copyright. Usage is governed by contract with Thomson Reuters, West and their affiliates.

REAL PROPERTY TRANSACTION RECORD

Filings Collected Through:07-19-2010
County Last Updated:07-28-2010
Frequency of Update:WEEKLY
Current Date:08/03/2010
Source: COUNTY RECORD-
ER

, SANTA CLARA, **CALIFORNIA**

OWNER INFORMATION

Owner(s):MADDEN JOHN E & SANDRA
Owner Relationship:HUSBAND AND WIFE
Ownership Rights:COMMUNITY PROPERTY
Absentee Owner:SITUS FROM SALE (OCCUPIED)
Property Address:**191 ANAHEIM TER**
SUNNYVALE CA 94086-5092
Mailing Address:191 ANAHEIM TER
SUNNYVALE CA 94086-5092

PROPERTY INFORMATION

County:**SANTA CLARA**
Assessor's Parcel Number:204-49-068
Property Type:RESIDENTIAL CONDOMINIUM
Land Use:CONDOMINIUM
Building Square Feet:1919

TRANSACTION INFORMATION

Transaction Date:03/09/2010
Seller Name:FIRST FRANKLIN MTG LN 2006-FF1
Sale Price:\$660,000.00
Consideration:SALE PRICE (FULL)
Deed Type:GRANT DEED
Document Type:GRANT DEED
Type of Transaction:RESALE
Mortgage Amount:\$618,640.00
Mortgage Type:FEDERAL HOUSING AUTHORITY
Mortgage Term:30 YEARS
Mortgage Deed Type:DEED OF TRUST
Mortgage Date:04/28/2010
Mortgage Due Date:06/01/2040
Lender Name: PINNACLE CAP MTG CORP

Lender Address: ROSEVILLE, CA 95661
Recording Date: 05/06/2010
Document Number: 20702450
Title Company: CHICAGO TITLE CO.
Construction Type: SALE IS A RE-SALE
Purchase Payment: MORTGAGE
Foreclosure Sale: REO SALE - SALE FROM GOVERNMENT TO
PRIVATE PARTY

TAX ASSESSOR RECORD is available for this property. The record contains information from the office of the local real property tax assessor office. In addition to identifying the current owner, the record may include tax assessment information, the legal description, and property characteristics. Additional charges may apply.

TRANSACTION HISTORY REPORT is available for this property. The report contains details about all available transactions associated with this property. The report may include information about sales, ownership transfers, refinances, construction loans, 2nd mortgages, or equity loans based on recorded deeds. Additional charges may apply.

Call Westlaw CourtExpress at 1-877-D0C-RETR (1-877-362-7387)
to order copies of documents related to this or other matters.
Additional charges apply.

END OF DOCUMENT

